

FOREIGN ACCOUNT TAX COMPLIANCE ACT (FATCA)

INDEMNITY AGREEMENT

This FATCA Indemnity Agreement (the "Agreement") is entered into as of _____, 20____, by and between:

Indemnitor:

Address:

Tax Identification Number / GIIN: _____

and

Indemnitee:

Address:

Indemnitor and Indemnitee may collectively be referred to herein as the "Parties" or individually as a "Party."

RECITALS

WHEREAS, the Parties have entered into, or are entering into, certain commercial, financial, or investment relationships pursuant to that certain _____ Agreement dated _____ (the "Underlying Agreement"); and

WHEREAS, the Indemnitee is subject to certain obligations, withholding requirements, and reporting rules under the Foreign Account Tax Compliance Act ("FATCA"), enacted as part of the Hiring Incentives to Restore Employment Act, and codified in Sections 1471 through 1474 of the United States Internal Revenue Code of 1986, as amended (the "Code"), including any Treasury Regulations promulgated thereunder, intergovernmental agreements (IGAs), or local implementing laws; and

WHEREAS, to ensure compliance with FATCA and to safeguard the Indemnitee against any potential tax liabilities, interest, penalties, or withholding tax obligations that may arise due to the tax status, classification, or failure to document the FATCA status of the Indemnitor, the Indemnitor has agreed to provide the representations, covenants, and indemnities set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. DEFINITIONS

- a. **"FATCA"** means Sections 1471 through 1474 of the Code, any current or future regulations or official interpretations thereof, any agreement entered into pursuant to Section 1471(b) of the Code, or any fiscal or regulatory legislation, rules, or practices adopted pursuant to any intergovernmental agreement entered into in connection with the implementation of such Sections of the Code.
- b. **"FATCA Withholding"** means any withholding or deduction required pursuant to an agreement described in Section 1471(b) of the Code or otherwise imposed pursuant to Sections 1471 through 1474 of the Code, the regulations or agreements thereunder, official interpretations thereof, or any law implementing an intergovernmental approach thereto.
- c. **"Losses"** means any and all taxes, withholdings, liabilities, claims, demands, damages, losses, costs, penalties, interest, fines, and expenses (including, without limitation, reasonable legal fees and expenses) arising out of or in connection with any breach of representation, warranty, or covenant contained in this Agreement.

2. REPRESENTATIONS AND WARRANTIES

The Indemnitor hereby represents and warrants to the Indemnitee that:

- a. It has fully analyzed its status under FATCA and represents that its FATCA status is:

- _____.
- b. All tax forms (including but not limited to IRS Forms W-8BEN, W-8BEN-E, W-8IMY, W-8ECI, W-8EXP, or W-9), Global Intermediary Identification Numbers (GIIN), and any supporting documentation provided by the Indemnitor to the Indemnitee are true, correct, and complete in all material respects.
 - c. It is in compliance, and will remain in compliance, with all applicable FATCA requirements, and has registered with the IRS or local tax authority to the extent required by its status.

3. COVENANTS

The Indemnitor covenants and agrees to:

- a. Notify the Indemnitee in writing within _____ days of any change in circumstances that causes, or may cause, any representation or documentation provided under this Agreement to become incorrect, obsolete, or invalid.
- b. Provide the Indemnitee with updated, valid, and properly executed tax forms or other required documentation within _____ days of any such change in circumstances, or upon the reasonable request of the Indemnitee.
- c. Cooperate fully with the Indemnitee in providing any additional information, documentation, or certification necessary for the Indemnitee to satisfy its FATCA reporting, compliance, or withholding obligations.

4. INDEMNIFICATION

- a. The Indemnitor hereby agrees to indemnify, defend, and hold harmless the Indemnitee, its affiliates, directors, officers, employees, and agents from and against any and all Losses arising out of, or resulting from:
 - i. Any failure by the Indemnitor to comply with its obligations under FATCA or this Agreement;
 - ii. The inaccuracy, untruthfulness, or incompleteness of any representation, warranty, or tax documentation provided by the Indemnitor;
 - iii. Any FATCA Withholding tax, interest, or penalties imposed on payments made to or by the Indemnitee due to the FATCA status or lack of documentation of the Indemnitor.
- b. The indemnification obligations under this Section shall survive the expiration or termination of the Underlying Agreement and the termination of this Agreement.

5. PAYMENT OF INDEMNITY CLAIMS

Any amount payable by the Indemnitor to the Indemnitee under this Agreement shall be paid within _____ business days of written demand by the Indemnitee, accompanied by reasonable documentation setting forth the basis for and calculation of the Losses incurred.

6. GOVERNING LAW AND JURISDICTION

This Agreement shall be governed by, and construed in accordance with, the laws of _____, without regard to principles of conflicts of law. Any legal action or proceeding arising under this Agreement shall be brought exclusively in the courts of _____.

7. MISCELLANEOUS

- a. **Entire Agreement:** This Agreement constitutes the entire agreement between the Parties regarding the subject matter hereof and supersedes all prior agreements or understandings.
- b. **Amendments:** This Agreement may not be amended or modified except by a written instrument executed by both Parties.
- c. **Counterparts:** This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the Parties hereto have executed this FATCA Indemnity Agreement as of the date first written above.

INDEMNITOR:

By: _____
Name: _____
Title: _____
Date: _____

INDEMNITEE:

By: _____
Name: _____
Title: _____
Date: _____